

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HARRIET SAVITCH,

Plaintiff,

v.

MARTIN KIRK, individually and in his  
official capacity as Code Enforcement Officer  
of the Department of Land Use of New Castle  
County, and NEW CASTLE COUNTY,

Defendants.

C. A. NO: 07 - 215

**JURY TRIAL DEMANDED**

**COMPLAINT**

**FACTS COMMON TO ALL COUNTS**

1. The Plaintiff, Harriet Savitch, is an adult resident of the State of Delaware residing at 16 Woodbrook Circle, Westwood, Wilmington, DE 19810.
2. The Defendant Martin Kirk, individually and in his official capacity as a Code Enforcement Officer, at all times relevant hereto was employed with the Department of Land Use of New Castle County and his office is located at 87 Reads Way, New Castle, DE 19720.
3. The Defendant New Castle County is a governmental entity in the State of Delaware.
4. On April 22, 2005 Plaintiff was in her home when Defendant Martin Kirk, a Police Officer whose name is unknown, a medical doctor whose name is unknown and emergency personnel appeared at her home without any warrants, documentation and/or prior permission or knowledge by Plaintiff.

5. The Defendant Martin Kirk asked Plaintiff to come out of her home and once she was outside, he explained to her that he was concerned about her health and that they were taking her into custody and being transported to the Wilmington Hospital.

6. Plaintiff was not permitted to go back into her home to get personal items or her walker.

7. The Defendant Martin Kirk, the Police Officer and the medical doctor informed Plaintiff that she had to go to the hospital.

8. The presence of the Police Officer and the medical doctor were there to ensure that Plaintiff was taken into custody at the direction of Defendant Martin Kirk and transported to the Wilmington Hospital.

9. Plaintiff was taken into custody, without any justification, and was involuntarily admitted to the Wilmington Hospital where she was examined and later transferred to St. Jones Behavioral Center for a psychological evaluation.

10. The psychiatric doctor from St. Jones Behavioral Center found no basis for Plaintiff's admission for a psychological evaluation and release Plaintiff.

11. Upon Plaintiff's arrival to her home, it was boarded up and was not permitted to enter her home.

### **JURIDICTION**

12. This action arises under the Fourth and Fourteenth Amendments to the United States Constitution, and the Civil Rights Action of 1870, 42 U.S.C. §1983 et seq. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §1343.

13. This Court has pendant jurisdiction over related State claims based on the facts and circumstances that support the Federal violations.

**COUNT I**

**CONSTITUTIONAL VIOLATION**

14. Paragraphs 1 to 13 are hereby realleged in their entirety and incorporated herein by reference.

15. The actions of Defendant Martin Kirk violated Plaintiff's right to be free from an unlawful seizure under the Fourth Amendment to the United States Constitution. Defendant Martin Kirk and New Castle County are liable to the Plaintiff for Defendant Kirk's unlawful actions in violation of the Constitution, individually, and in his official capacity as Code Enforcement Officer of the Department of Land Use of New Castle County.

16. As a result of the Defendants' actions, Plaintiff suffered psychological and financial damages.

**COUNT II**

**NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

17. Paragraphs 1 to 16 are hereby realleged in their entirety and incorporated herein by reference.

18. Defendant Martin Kirk, in his capacity as a New Castle County Code Enforcement Official, by his gross negligence and/or recklessness, related to the unconstitutional and unlawful seizure of Plaintiff, breached the duty of care owed to Plaintiff.

20. At all times relevant hereto, the Defendant Martin Kirk was acting within the scope of his employment, and therefore, Defendant New Castle County is vicariously liable for the actions of its agents, servants and/or employees.

21. As a proximate cause and result of the Defendant's gross negligence and recklessness, Plaintiff has suffered and continues to suffer mental anguish and emotional distress.

**COUNT III**


**UNLAWFUL DETENTION**

22. Paragraphs 1 to 21 are hereby realleged in their entirety and incorporated herein by reference.

23. The seizure of the Plaintiff and transportation to Wilmington Hospital for an involuntary commitment, at the direction of Defendant Martin Kirk with no lawful basis constitutes an unlawful detention.

24. At all times relevant hereto, the Defendant Martin Kirk was acting within the scope of his employment, and therefore, Defendant New Castle County is vicariously liable for the actions of its agents, servants and/or employees.

WHEREFORE, the Plaintiff demands that judgment be entered against the Defendants, jointly and severally, for compensatory damages, general damages, special damages, punitive damages, mental anguish, emotional distress, together with such other relief as the Court shall deem just and equitable under the circumstances, together with interest and costs of this action.

  
HARRIET SAVITCH, Pro Se  
16 Woodbrook Circle  
Westwood  
Wilmington, DE 19810

DATED: 

07-215

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Harriet Savitch, Pro Se

(b) County of Residence of First Listed Plaintiff

New Castle

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

16 Woodbrook Circle, Westwood, Wilmington, DE 19810

**DEFENDANTS** Martin Kirk, individually and in his official capacity as Code Enforcement Officer of the Dept. of Land Use of New Castle County, and New Castle County

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 PTF ☒ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 PTF ☒ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

42 USC Section 1983

Brief description of cause:

Unlawful Seizure &amp; unlawful detention

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07 - 215

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 1 COPIES OF AO FORM 85.

APR 20 2007

(Date forms issued)

*Harriet Savitch*

(Signature of Party or their Representative)

HARRIET SAVITCH

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action

OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

Peter T. Dalleo  
CLERK

LOCKBOX 18  
844 KING STREET  
U.S. COURTHOUSE  
WILMINGTON, DELAWARE 19801  
(302) 573-6170

RE: C.A.# 07-215

CASE CAPTION: Savitch v. Kirk, et al

**ACKNOWLEDGMENT OF RECEIPT FOR F.R.Civ.P. 4**

I hereby acknowledge receipt of a copy of Rule 4 (Summons) of the Federal Rules of Civil Procedure, and understand that it is my responsibility to make service of process on defendants in accordance with this rule.

Date Received April 20, 2007 Signed: [Signature]  
by Plaintiff: Pro Se Plaintiff

Date Received APR 20 2007 Signed: [Signature]  
by Clerk's office: Deputy Clerk

Note: If you received Federal Rule 4 by mail, please sign this receipt and return it to:

Clerk  
U.S. District Court  
844 N. King Street  
Lockbox 18  
Wilmington, DE 19801

If applicable, Rule 4 mailed to plaintiff:

\_\_\_\_\_  
Date mailed

\_\_\_\_\_  
By Deputy Clerk

cc: Docketing Clerk